



Billing Code: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-523-801]

Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) has determined that imports of circular welded carbon-quality steel pipe (circular welded pipe) from the Sultanate of Oman (Oman) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final dumping margins for this investigation are listed in the “Final Determination” section of this notice.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: John Drury or Ericka Ukrow, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0195 or (202) 482-0405, respectively.

SUPPLEMENTARY INFORMATION

Background

On June 1, 2012, the Department published in the *Federal Register* its preliminary determination in the antidumping duty investigation of circular welded pipe from Oman.¹

In the *Preliminary Determination*, the Department stated that “{W}e will further examine whether there is other information that denotes a more appropriate date of sale as it is unclear from the record whether the material terms of these sales were set prior to the POI” and that “{W}e intend to issue a supplemental questionnaire to Al Jazeera” to solicit more information in order to determine the appropriate date of sale.² On June 6, 2012, the Department issued Al Jazeera Steel Products Co. SAOG (Al Jazeera), the mandatory respondent in this investigation, a third supplemental questionnaire.³ On June 14, 2012, Al Jazeera submitted its response to the third supplemental questionnaire.⁴

As provided in section 782(i) of the Act, we conducted sales and cost verifications between June 18 and 28, 2012 of the questionnaire responses submitted by Al Jazeera. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the company.⁵

On July 2, 2012, Allied Tube and Conduit and the JMC Steel Group (collectively, Petitioners) requested a hearing pursuant to 19 CFR 351.310(c).⁶

¹ See *Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 77 FR 32531 (June 1, 2012) (*Preliminary Determination*).

² See *Preliminary Determination* at 32535.

³ See Letter from Angelica L. Mendoza, Program Manager, Office 7, to Al Jazeera Steel Products Co. SAOG, dated June 6, 2012.

⁴ See Al Jazeera’s Third Supplemental Questionnaire Response, dated June 14, 2012.

⁵ See Memoranda to the File entitled “Verification of the Sales Response of Al Jazeera Steel Products Co. SAOG in the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman,” dated August 14, 2012; “Verification of the Cost Response of Al Jazeera Steel Products Co. SAOG in the Antidumping Investigation of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman,” dated August 21, 2012.

⁶ See Letter from Allied Tube and Conduit and JMC Steel (Petitioners) to the Secretary of Commerce, dated July 2, 2012.

As provided in section 782(i) of the Act, we conducted sales and cost verifications of the questionnaire responses submitted by Al Jazeera. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the company. Based on the Department's findings at verification, as well as the minor corrections presented by Al Jazeera at the start of verification, on August 17, 2012, the Department requested that Al Jazeera submit revised sales databases.⁷ On August 22, 2012, Al Jazeera timely submitted their revised sales databases.⁸

We received case briefs from Petitioners and Al Jazeera on August 29, 2012.⁹ On September 4, 2012, Al Jazeera and Petitioners timely submitted rebuttal comments.¹⁰ Petitioners, pursuant to 19 CFR 351.310(c), withdrew its request for a hearing on September 13, 2012.¹¹

Period of Investigation

The period of investigation is October 1, 2010, to September 30, 2011.

Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (O.D.) not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International (ASTM),

⁷ See Letter from Angelica L. Mendoza, Program Manager, Office 7, to Al Jazeera Steel Products Co. SAOG, dated August 17, 2012.

⁸ See Al Jazeera's Fourth Supplemental Questionnaire Response, dated August 22, 2012.

⁹ See Letter to the Secretary of Commerce from Petitioners, dated August 29, 2012, and Letter to the Secretary of Commerce from Al Jazeera, dated August 29, 2012.

¹⁰ See Letter to the Secretary of Commerce from Petitioners, dated September 4, 2012, and Letter to the Secretary of Commerce from Al Jazeera, dated September 4, 2012.

¹¹ See Letter to the Secretary of Commerce from Petitioners, dated September 13, 2012.

proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term “carbon quality” includes products in which: (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium;
- (xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to

proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (API) API-5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding;¹² (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.*, outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations,

¹² Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a “kit.” A “kit” is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
1.660 inch O.D. and 0.055 inch wall thickness (gage 17)
1.660 inch O.D. and 0.065 inch wall thickness (gage 16)
1.660 inch O.D. and 0.072 inch wall thickness (gage 15)
1.660 inch O.D. and 0.083 inch wall thickness (gage 14)
1.660 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.109 inch wall thickness (gage 12)
1.900 inch O.D. and 0.047 inch wall thickness (gage 18)
1.900 inch O.D. and 0.055 inch wall thickness (gage 17)
1.900 inch O.D. and 0.065 inch wall thickness (gage 16)
1.900 inch O.D. and 0.072 inch wall thickness (gage 15)
1.900 inch O.D. and 0.095 inch wall thickness (gage 13)
1.900 inch O.D. and 0.109 inch wall thickness (gage 12)

2.375 inch O.D. and 0.047 inch wall thickness (gage 18)
2.375 inch O.D. and 0.055 inch wall thickness (gage 17)
2.375 inch O.D. and 0.065 inch wall thickness (gage 16)
2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (“HTSUS”) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope of the investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the Issues and Decision Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration (Issues and Decision Memorandum), which is dated concurrently with and hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Application of Adverse Facts Available (AFA) to Certain Bank Expenses Related to Al Jazeera's U.S. Sales

In its section C questionnaire response, Al Jazeera reported bank charges for its U.S. sales.¹³ However, Al Jazeera stated that it could not trace the actual bank charges to each sale.¹⁴ Therefore, Al Jazeera reported estimated bank charges based upon a

¹³ See Al Jazeera's section B&C response, dated February 9, 2012 (BCQR) at 82.

¹⁴ See Memorandum to the File, from Ericka Ukrow and John K. Drury, Case Analysts, titled "Verification of the Sales Response of Al Jazeera Steel Products Co. SAOG in the Antidumping Duty Investigation of Circular Welded Carbon-Quality Pipe from the Sultanate of Oman," dated August 14, 2012 (Sales Verification Report) at 3 and VE-1.

percentage of the sales price and the bank into which Al Jazeera deposited the payment for the sale.¹⁵

At verification, Al Jazeera stated that its allocation methodology overstated the actual bank charges.¹⁶ As an example, Al Jazeera submitted random U.S. sales and compared the total of the actual bank charges for these sales to the total originally reported.¹⁷ The aggregate total bank charge for the randomly selected sales was lower than the reported total.¹⁸ However, in examining the individual sales selected by Al Jazeera, we noted that half of the randomly selected sales had bank charges which did not match the reported percentages in the section C database.¹⁹ Furthermore, for another sale, we found that some of the bank charges were mis-classified into a separate account.²⁰ Finally, one of the sales traces that we examined did not have any bank charges associated with the sale.²¹ The other sales traces showed a similar lack of pattern for the reported sales.²²

Section 776(a) of the Act provides that the Department shall apply “facts otherwise available” if (1) necessary information is not on the record or (2) an interested party or any other person (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 30-34 and Verification Exhibits 28, 38-46.

²² *Id.* at 32 and VE-39.

Section 776(b) of the Act provides further that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance upon information derived from the petition or other information placed on the record.²³ The SAA explains that the Department may employ an adverse inference about the missing information “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”²⁴ Importantly, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.”²⁵

We find that that the application of facts available is appropriate under section 776(a)(2)(D) of the Act because Al Jazeera failed properly to report certain bank expenses related to U.S. sales and, instead, provided information that, upon examination at verification, was irreconcilable with Al Jazeera’s original reported methodology. Further, we find that the application of AFA is appropriate under section 776(b) of the Act because Al Jazeera failed to cooperate by not acting to the best of its ability in responding to the Department’s request for verifiable information. As adverse facts available, the Department has applied the highest bank charge percentage that we examined and reconciled at verification,²⁶ based on the percentage of the sales value, to all of Al Jazeera’s U.S. sales.

²³ *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. 103-316, Vol. 1, 103d Cong. (1994) (SAA) at 870.

²⁴ *Id.*

²⁵ *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003).

²⁶ *See Sales Verification Report*, VE-1, at 3.

Finally, because we are relying on Al Jazeera's own information obtained during the course of this investigation, there is no need to corroborate this data pursuant to section 776(c) of the Act.

Changes Since the *Preliminary Determination*

Based on our analysis of the comments received and our findings at verifications, we have made certain changes to the margin calculations for Al Jazeera. For a discussion of these changes, *see* Memorandum to the file, through Angelica Mendoza, Program Manager, from Ericka Ukrow and John Drury, International Trade Analysts, entitled "Analysis of Data Submitted by Al Jazeera Steel Products Co. SAOG in the Final Determination of the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman" dated October 15, 2012 (Final Analysis Memorandum); *see also* Memorandum to Neal M. Halper, Director, Office of Accounting, through Michael P. Martin, Lead Accountant, from Laurens van Houten, Senior Accountant, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination - Al Jazeera Steel Products Co. SAOG," dated October 15, 2012.

In preparing for this final determination, the Department determined that the Arm's Length Test in the SAS program was improperly dropping certain sales from the comparison market database. We corrected this error for the final determination. See Final Analysis Memorandum at 8.

Final Determination

The Department determines that the following dumping margins exist for the period October 1, 2010, to September 30, 2011:

Manufacturer/Exporter (percent)	Weighted-Average Margin
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Al Jazeera Steel Products Co. SAOG	5.81
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All Others	5.81
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Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of circular welded pipe from Oman which were entered, or withdrawn from warehouse, for consumption on or after June 1, 2012, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the following weighted-average margins, as indicated above: (1) the rate for Al Jazeera will be the rate we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 5.81 percent, as discussed in the “All Others Rate” section, below. These suspension-of-liquidation instructions will remain in effect until further notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping

margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. Al Jazeera is the only respondent in this investigation for which we calculated a company-specific rate that is not zero or *de minimis*. Therefore, for purposes of determining the “all others” rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Al Jazeera, 5.81 percent, for the “all others” rate, as referenced above.

Disclosure

We intend to disclose to parties in this proceeding the calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act the ITC will determine within 45 days whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

October 15, 2012_
Date

Appendix I

Issues and Decision Memorandum

Comment 1: Date of Sale

Comment 2: Targeted Dumping

Comment 3: Hot-Rolled Steel Coil Cost and Yield Ratio

Comment 4: Model Matching Hierarchy

Comment 5: Double-Counting of Certain Export Charges